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ABSTRACT

This guide, intended for regular educators in Pitt County, North Carolina, attempts to answer questions concerning Section 504 of the Rehabilitation Act of 1973, compares this statute with the Individuals with Disabilities Education Act (IDEA), and offers practical suggestions for implementing Section 504. An introduction explains the right of a student with disabilities to a free appropriate public education, notes that some individuals may qualify as "handicapped" under Section 504 who do not qualify as "disabled" under IDEA, and stresses that the process of identification and determination of necessary accommodations are regular education functions. A glossary of 39 items defines terminology of both Acts. The next section looks at procedures required under the law including: consideration of Section 504 and IDEA eligibility, evaluation procedures, and eligibility determination. A chart then compares specific features of IDEA and Section 504. These are: general purpose, who is protected, educational responsibility, special education versus regular education, funding, accessibility, procedural safeguards, evaluations, identification procedures, and grievance procedures. Next, guidelines for notification, developing an accommodation plan, reevaluation, grievance, and due process are outlined with examples. Five forms used in the County to comply with Section 504 are attached. (DB)

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SECTION 504
1973 Rehabilitation Act

Subpart D
34 Code of Federal Regulations - 104

Procedures Manual for Regular Education

Pitt County Schools
March, 1993

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TABLE OF CONTENTS

Page No.

I. FOREWORD..... 1

II. INTRODUCTION..... 2
. Examples of Section 504 Handicaps

III. TERMINOLOGY..... 5

IV. PROCEDURES.....13
. Consideration of Section 504 and IDEA Eligibility
. Evaluation Procedures
. Eligibility Determination

V. IDEA/504 FLOW CHART.....15

VI. IDEA AND SECTION 504: A COMPARISON.....16
. General Purpose
. Who is protected?
. Responsibility to Provide a Free Appropriate Public Education
. Special Education vs. Regular Education
. Funding
. Accessibility
. Procedural Safeguards
. Evaluations
. Identification Procedures
. Grievance Procedure

VII. PROGRAM OF SERVICES.....21
. Notice of Rights (RE4)
. Accommodation Plan (RE5)
. Classroom and Facility Accommodation Examples
. Reevaluation
. Grievance Procedure
. Due Process Hearing Procedures

VIII. SUMMARY OF FORMS.....27
. RE1/HCA
. RE2
. RE3
. RE4
. RE5

IX. RESOURCE LIST.....37

FOREWORD

As schools and parents have become more aware of the requirements of Section 504 of the Rehabilitation Act of 1973, Pitt County Schools has provided assistance regarding this federal civil rights statute which protects the rights of persons with disabilities. This publication is intended to provide:

- basic questions and answers concerning Section 504, Subpart D,
- a chart comparing this statute with the Individuals with Disabilities Act,
- practical suggestions for implementing the statute.

Dr. Howard Sosne
Superintendent
Pitt County Schools

INTRODUCTION

The Rehabilitation Act of 1973 provides protection against discrimination on the basis of one's handicap. The regulations to the Act are comprised of seven subparts containing (A) General Provisions, (B) Employment Practices, (C) Program Accessibility, (D) Preschool, Elementary and Secondary Education, (E) Post Secondary Education, (F) Health, Welfare and Social Services and (G) Procedures. Subpart D governs participation in school programs for certain students.

Section 504 of the Rehabilitation Act of 1973 protects the rights of individuals with handicaps in programs d activities that receive federal financial assistance and states:

> **No otherwise qualified individual with handicaps in the United States...shall, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance or activity conducted by any Executive agency or by the United States Postal Service.** (29 USC 794)

Recipients of this assistance include public school systems, institutions of higher education, and other state and local education agencies.

For many years the main thrust of Section 504 has been in the area of employment for individuals with handicaps and for members of minority groups. However, within the last several years, the Office of Civil Rights (OCR), charged with enforcement of Section 504, has become pro-active in the field of education of handicapped individuals. Advocacy organizations and the legal system likewise have increasingly focused on Section 504's requirements to ensure the education system provides the full range of special accommodations and services necessary for students with special needs to participate in and benefit from public education programs and activities. The following information focuses upon the instruction issues of Section 504 (Subpart D), and not upon employment practices.

Included in the United States Department of Education regulations for Section 504 is the requirement that handicapped students be provided with Free Appropriate Public Education (FAPE). These regulations require identification, evaluation, the provision of appropriate accommodations, and procedural safeguards.

With respect to most handicapped students, many aspects of the Section 504 regulation concerning FAPE parallel the requirements of the Individuals with Disabilities Education Act (IDEA) (formerly the Education of the Handicapped Act) and North Carolina law. In those areas, by fulfilling responsibilities under the IDEA and state law, a school system is also meeting the standards of the Section 504 regulations.

The Individuals with Disabilities Education Act (IDEA, Public Law 101-476), is an education act. The Rehabilitation Act of 1973 is a civil rights act. They share a great deal of commonality, yet there are substantial differences.

All individuals who are disabled under Individuals with Disabilities Education Act (IDEA) are also considered to be handicapped under Section 504. However, all individuals who have been determined to be handicapped under Section 504 may <u>not</u> be disabled under IDEA.

According to Section 504, facilities provided for students with disabilities must be comparable to those provided for nondisabled students. Students with disabilities must also receive an equal opportunity to participate in transportation services. Transportation schedules must not result in these students spending appreciably more time on buses than nondisabled students. Transportation schedules must be designed to ensure arrival and departure times that do not reduce the length of the school day for special education students unless a shorter school day is prescribed on an individual basis.

If a student is determined to be handicapped under Section 504, the school system must develop and implement a plan for the delivery of needed accommodations. These steps must be taken even though the student is not covered by IDEA special education provisions and procedures.

What is required for the Section 504 evaluation and identification process is determined by the type of handicap believed to be present, and the type of accommodations the student may need. The evaluation must be sufficient to accurately and completely assess the nature and extent of the handicap, and the recommended accommodations. Evaluations more limited than a full special education evaluation may be adequate in some circumstances. For example, in the case of the student with juvenile arthritis, the evaluation might consist of the school nurse meeting with the parent and reviewing the student's current medical records. In the cases of students with Attention Deficit Disorder, current psycho-educational evaluations may be used if such evaluation assessed the Attention Deficit Disorder issue. In other cases, additional testing may be necessary.

The determination of what accommodations are needed must be made by

a group of persons knowledgeable about the student. The group should review the nature of the handicap, how it affects the student's education, whether accommodations are needed, and if so what those accommodations are. The decisions about Section 504 eligibility and accommodations must be documented in the student's file and reviewed periodically.

EXAMPLES OF HANDICAPS WITH SECTION 504

The following are some examples of handicaps which might NOT require services provided by a program for Exceptional Children, but which could require 504 accommodations in the education setting:

1. A student with a health related problem, for example, juvenile arthritis, might need extra time to move about the school campus. S/he might also need assistance with written assignments. One Teacher Assistance Team recommended the use of a word processor for written assignments.

2. For a student with cystic fibrosis, one Teacher Assistance Team modified his class schedule to address the student's stamina and monitored the effects of his/her medication.

3. A student with Attention Deficit Hyperactivity Disorder (ADHD) might not qualify for placement in a program for exceptional children with an Individuals with Disabilities Education Act classification, but might be handicapped under Section 504. Accommodations might include seating near the teacher and away from windows, shortened assignments, frequent feedback, positive reinforcement, contingency contracts, etc.

The parent or guardian must be provided with notice of actions affecting the identification, evaluation, or accommodations. Parents are entitled to a hearing if they disagree with decisions made by the local education agency.

In summary, it is important to understand that some students who have physical or mental conditions that limit their ability to participate in the education program are entitled to rights under Section 504 even though they may not fall into Individuals with Disabilities Education Act categories. **The process of identifying students and determining necessary accommodations are to be viewed as regular education functions.**

TERMINOLOGY

ACCESSIBILITY

Used to describe facilities or parts of facilities which may be entered and used by individuals despite handicapping conditions. While often equated with wheelchair use, accessibility actually includes responding to the needs of people with sight or hearing disabilities, as well as to those with activity, manual or mobility impairments.

ACCOMMODATION

Any modification provided for a handicapped student in an effort to meet the educational needs of such a student as adequately as the educational needs of a nonhandicapped student are met.

ACCOMMODATION, PHYSICAL

Any assistive device, equipment or other consideration to equalize opportunity. It does not include change(s) in instructional programs. The term is exemplified when accommodation is limited to providing special equipment, administering medication, preferential seating and other considerations.

ACCOMMODATION PLAN

A written document setting forth the accommodations provided for a handicapped student.

AMENDMENTS

Alterations or changes in handicapped student's Accommodation Plan.

AWARENESS

Having knowledge of something that is not obvious or apparent. In the context of this *manual*, awareness might be described as the ability to anticipate the problems, needs, and solutions.

CHILDFIND

Annual identification and location of all Section 504 qualified children in their geographic area who are not receiving an appropriate public education. 34 CFR 104.32(a)

COORDINATOR

The person specifically named by the recipient to coordinate the requirements of Section 504 of the Rehabilitation Act of 1973.

DAYS

As used in these procedures means calendar days.

DISCRIMINATION

The exclusion from participation in, denial of benefits of, any program or activity receiving or benefiting from federal financial assistance. 34 CFR 104.4(a):

1. Denies a handicapped person the opportunity to participate in or benefit from assistance and activities which are provided nonhandicapped students (e.g., district practice of refusing to allow any student on an Individual Education Plan the opportunity to be on the honor roll; denial of credit to a student whose absenteeism is related to his/her handicapping condition; expelling a student for behavior related to his/her handicapping condition; refusing to dispense medication to a student who could not attend school otherwise).

2. Fails to provide the handicapped person an opportunity to participate in or benefit from assistance or activities that are equal to that afforded others (e.g., applying a policy that conditions interscholastic sports eligibility on students receiving passing grades in five subjects without regard to the student's handicapping condition).

3. Fails to provide assistance or activities to the handicapped person that are as effective as those provided nonhandicapped persons (e.g., placing a student with a hearing impairment in the front row as opposed to providing her with an interpreter). Note: "Equally effective" means equivalent as opposed to identical. Moreover, to be equally effective, different types of assistance and activities need not produce equal results; they **must merely afford an equal opportunity to achieve equal results.**

4. Providing significant assistance to an agency, organization or person that discriminates on the basis of handicap (e.g., sponsoring a student organization that excludes persons with handicaps).

5. Limits any right, privilege, advantage or opportunity available to others.

6. In determining the site or location of a facility, makes selection which effectively exclude persons with handicaps, denies them the benefits of, or otherwise subject them to discrimination.

DUE PROCESS

Provision of impartial hearings for parents or guardians who disagree with the identification, evaluation or placement of a student with disabilities.

EDUCATION

Special, specialized or regular education or any combination thereof.

FREE APPROPRIATE PUBLIC EDUCATION

Qualified handicapped students, ages three (3) through twenty (20) must be provided a free appropriate public education. This means that educational services shall include either regular or special education and related aids and services that are designed to meet the individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met.

EDUCATION, APPROPRIATE

The IDEA definition is:

"...*special education and related services which:*

(1) Are provided at public expense, under public supervision and direction, and without charge;

(2) Meet the standards of the state educational agency including the requirements of this part;

(3) Includes preschool, elementary school, or secondary school education in the state involved; and

(4) Are provided in conformity with an Individualized Educational Program which meets the requirements under 300.300-349 of Section C." (34 CFR 300.349)

The significant difference between this definition and the Section 504 definition is that under IDEA-B, special education and related services provided through an IEP is appropriate education. Section 504 recognizes that appropriate education might be provided through the provision of regular education or related accommodations *without an IEP*. Also, under IDEA-B related services may not be provided without special education. Section 504 may require the provision of

accommodations to a student not eligible for special education.

EDUCATION OF THE HANDICAPPED ACT

Statute as amended by the Education for all Handicapped Children Act of 1975, P.L. 94-142, 20 USC 1401 et seq.

ENFORCEMENT

Enforcement of Section 504 is the responsibility of the Office of Civil Rights. At the outset, enforcement of the law focused on discrimination in such areas as employment and access to facilities. Section 504 of the Act has been used to seek resolution to disputes in which student discipline, transportation and after school care are at issue. An increasing number of cases involve Attention Deficit Disorder, particularly when special education under the Individuals with Education Disability Act is not available.

EVALUATION

An organized and formal effort to assess a student's abilities, aptitude and educational needs on an individual basis. The term implies more than a single measurement.

EVALUATION, INDEPENDENT

An evaluation performed by persons other than those employed by the school system.

GRIEVANCE PROCEDURES

The entitlement of students, parents, and employees to file grievances. A procedure providing for an informal appeal to school system administrators similar to that afforded to parents under the Family Education Rights and Privacy Act for resolving disputes about student records. The grievance process may not be used to override decisions about a child's program made by the group of knowledgeable persons.

HANDICAPPED PERSON

One who has a "physical or mental impairment which substantially limits one or more major life activities and has record of such an impairment or is regarded as having such an impairment". (34 CFR 104.3(j)) A physical or mental impairment may be any of the handicapping conditions under IDEA. Conditions primarily the result of cultural, environmental or economic factors may not be considered handicapping conditions under Section 504 (similar to IDEA learning disabilities exclusions). Students formerly classified under IDEA but who have been misclassified or declassified may be eligible as handicapped under Section 504.

To be eligible under Section 504, there must be a handicapping condition that substantially limits one of the **major life activities**, e.g., learning.

For elementary and secondary education programs, a qualified handicapped person is a person with a handicap who is:

1. of an age during which it is mandatory under state law to provide such accommodations to persons with handicaps;
2. of an age during which persons without handicaps are provided such accommodations; or
3. a person for whom a state is required to provide a free appropriate public education under the Education of the Handicapped Act (EHA).

In general, all school age children who have handicaps are entitled to Free Appropriate Public Education.

HANDICAPPING CONDITIONS

Educable mentally handicapped - a condition of mental retardation which includes students who are educable in the academic, social and cognitive areas even though moderate supervision may be necessary.

Trainable mentally handicapped - a condition of mental retardation which includes students who are capable of only very limited meaningful achievement in the traditional basic academic skills but who are capable of profiting from programs of training in self-care and simple job or vocational skills.

Hearing impaired - a hearing impairment whether permanent of fluctuating, which adversely affects a child's educational performance.

Speech/language impaired - a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment which adversely effects a child's educational performance.

Visually handicapped - a visual impairment which, even with correction, adversely affects a child's educational performance. The term includes both partially seeing and blind children.

Behaviorally/emotionally handicapped - a condition of exhibiting one or more of the following characteristics over a long period of time and to a marked degree which adversely affects educational performance: an inability to learn which cannot be explained by intellectual, sensory, or health factor; an inability to establish or maintain satisfactory interpersonal relationships with peers and teachers;

inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems. The term includes children who are schizophrenic.

Orthopedically impaired - a severe orthopedic impairment which adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g. poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures).

IDEA

Refers to the *Individuals with Disabilities Education Act, P.L. 101-476* which is the federal law that governs the provision of "traditional" special education programs and related services.

JUDICIAL REVIEW

A court of competent authority.

LEAST RESTRICTIVE ENVIRONMENT (LRE)

Requirement that **qualified** individuals be placed in a "regular educational environment" unless it is demonstrated that education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.

LIFE ACTIVITIES

Includes such things as caring for one's self, doing manual tasks or walking, seeing, hearing, speaking, breathing, learning and working. A substantial limitation in only one of the life activities is all that is needed for one to be considered handicapped under the Section 504.

MEDIATION

A process specific to reconciliation of differences. Mediation efforts never supplant either party's right to the procedures of due process.

MEDIATOR

A person, usually a third party, who attempts to resolve differences between or among conflicting parties.

MULTIDISCIPLINARY TEAM

Two or more persons representing different, but relevant, fields of expertise.

NOTICE

Informs students, parents, employees and professional organizations of nondiscrimination in admission or access to, or treatment or employment in their programs or activities. The notice, which specifies the name(s) of the 504 coordinator(s) must be included in school system's general student/parent handbook. 34 CFR 104.8

NOTICE, ANNUAL

Yearly notify students with disabilities and their parents or guardians of the school system's responsibilities under Section 504. 34 **CFR** 104.32(B)

PHYSICAL OR MENTAL IMPAIRMENT

Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory; including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hermic and lymphatic; skin; and endocrine; or

Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. 34 CFR 104.3

PROCEDURAL SAFEGUARDS

The provision of the following to parents or guardians:

1. Notice of their rights, including the right to a hearing concerning the identification, evaluation, or accommodations for their child. 34 CFR 104.36

2. An opportunity to review relevant records.

3. A hearing conducted by an impartial person (not necessarily an attorney) who is not an employee of the district and who has no other conflict of interest. A review procedure is required. Appeal of a hearing officer decision to state or federal court satisfies this provision. 34 CFR 104.36

PROGRAM OR ACTIVITY

Includes all programs and/or activities conducted or sponsored by the school.

PUBLIC EXPENSE

At no cost to the parent or student.

QUALIFIED INDIVIDUALS

Those students of the same age as the nonhandicapped for whom services are provided. This includes those who are of mandatory school age and those students for whom the state is required to provide an IDEA free appropriate public education. 34 CFR 104.3(k)

REEVALUATION

Must be completed at least every three years in order to determine the appropriateness of current educational status of students or to determine whether or not a student continues in or exists from a special education program.

SCHOOL-BASED COMMITTEE

A team framework for evaluating data and recommending the most appropriate placement for children referred for special education services.

SPECIAL EDUCATION

Specifically designed instruction, at no cost to the parent, to meet the unique needs of the exceptional child, including classroom instruction, instruction in physical education, home instruction, instruction in hospitals and institutions and instruction in other settings.

SUBSTANTIAL LIMITATION

Significantly large restraint in the ability to perform a major life activity. A substantial limitation in learning exists when learning is significantly limited as to conditions, manner and duration when compared to most students.

TEACHER ASSISTANCE TEAM

A system within the school for problem-solving by and for regular classroom teachers. The system is designed to provide prompt, accessible support to teachers. Teachers refer students with problems to a team and the team and the referring teacher jointly engage in a structured process of conceptualizing the problem, brainstorming solutions, and planning interventions.

Consideration of Section 504 and IDEA Eligibility

Schools will take steps to identify and locate qualified handicapped persons enrolled and participating in its programs who are not receiving an appropriate education. These individuals will be referred to the Teacher Assistance Team (TAT) and this team will determine whether consideration of IDEA or 504 is appropriate. To provide documentation of parental notification and/or permission for screening, TAT forms RE-2 and RE-3 will be utilized. Examples of potential 504 handicapping conditions not typically covered under IDEA are:

1. medically documented communicable diseases - HIV, tuberculosis
2. medically documented conditions - asthma, allergies, diabetes, heart disease
3. temporary medically documented conditions due to illness or accident
4. Attention Deficit Disorder (ADD, ADHD)
5. behavioral difficulties
6. drug/alcohol addiction
7. possible retention
8. possible long-term suspension
9. potential drop-out

Evaluation Procedures

If the student is referred to IDEA, the required evaluations will be completed. At this point the School Based Committee (SBC) will, based upon appropriate evaluation data, determine eligibility for IDEA programs. If the student is not eligible for IDEA programs and services upon initial evaluation or reevaluation, and is thought to be Section 504 handicapped, the SBC shall refer the student back to the Teacher Assistance Team (TAT) for consideration of Section 504.

The Teacher Assistance Team (TAT) shall consider Section 504 eligibility for those suspected of being handicapped and, if necessary, develop an Accommodation Plan (AP). When evaluating students for Section 504 eligibility, the following sources of information may be considered:

1. aptitude measures
2. achievement measures
3. teacher observations and recommendations
4. classroom performance
5. medical reports
6. social and cultural data
7. third-party classroom observation

All Section 504 information will be documented on and housed in the TAT folder (RE1/HCA). A variety of sources of information should be considered when determining eligibility.

Eligibility Determination

Upon careful review and consideration of all evaluation information, the identification decision should be made by a team of individuals knowledgeable about the child, the meaning of evaluation data, and appropriate and available accommodations. The following considerations should be made:

1. If the student is determined to be handicapped under Section 504 of the Rehabilitation Act of 1973 then:
   a. What accommodations does the student need in order to be afforded access to a free appropriate public education?
   b. What interventions or adaptations are needed in regular education?

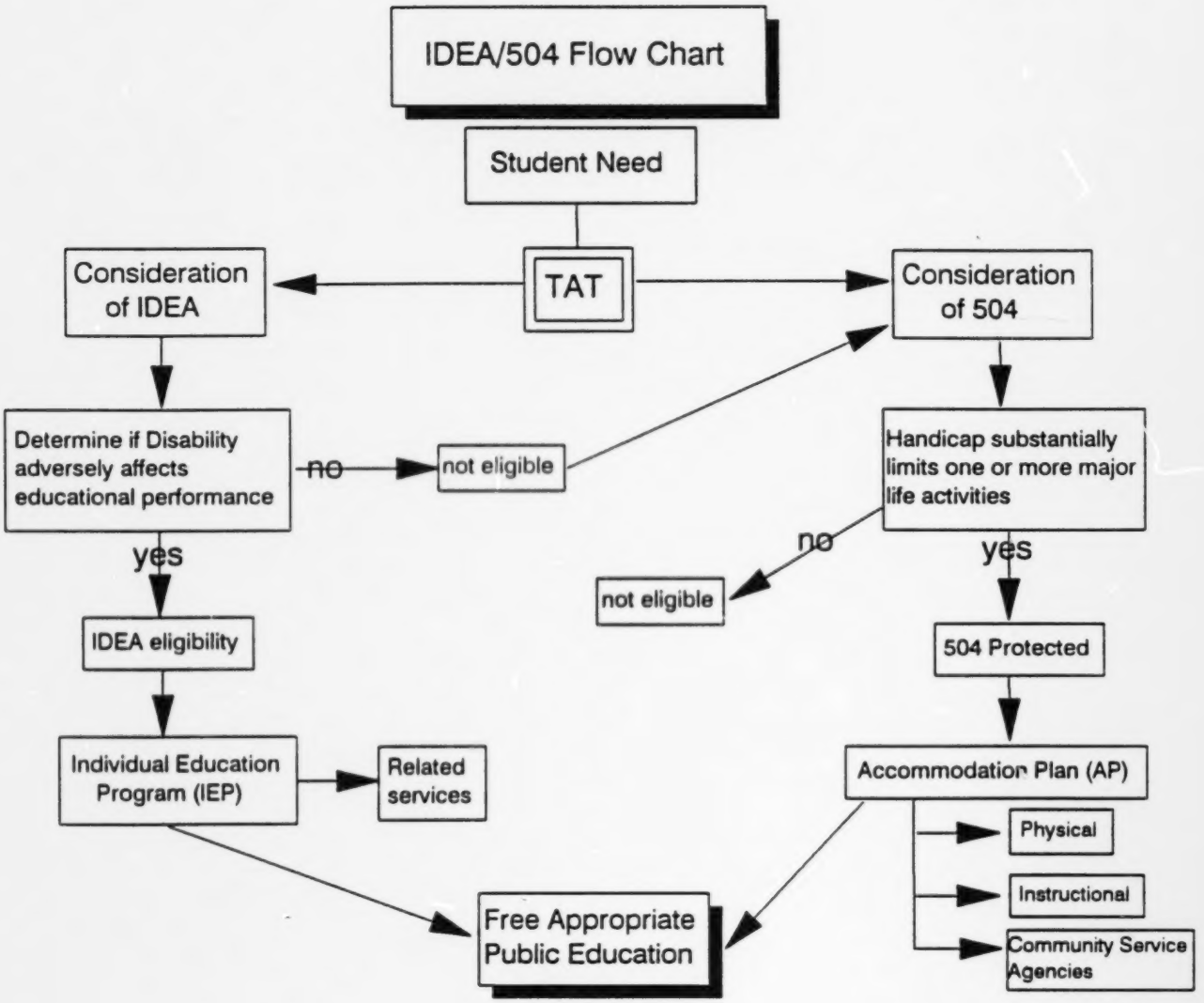
2. If the student is determined not to be handicapped under Section 504 then:
   a. Maintain documentation about the decision that includes the following:
      (1) The identity of the persons involved in the group that made the decision which reflects that they were knowledgeable about the student.
      (2) The evaluation data that was used to make the decision with any interpretations that might be required.
      (3) Accommodation options that were considered.

3. Provide **WRITTEN NOTICE** of the decision to the parent(s) which must include a complete statement of the parents' and student's Section 504 rights.

[Adapted from **Student Access**, C.A.S.E., 1992]

Temporary identification as Section 504 eligible for 30 days may be utilized by a school principal or designee when dealing with transfer students while waiting for records to be received.

When a student is found to be eligible for Section 504 identification, an Accommodation Plan will need to be developed by the TAT. Section 504 requires an appropriate educational program be designed to meet the individual educational needs of the qualified handicapped individuals.



[Adapted from Student Access, C.A.S.E., 1992]

IDEA AND SECTION 504

A COMPARISON

COMPONENT	IDEA (SPECIAL EDUCATION)	SECTION 504 (REGULAR EDUCATION)
General Purpose	Is a Federal funding statute whose purpose is to provide financial aid to states in their efforts to ensure adequate and appropriate services for disabled children.	Is a broad civil rights law which protects the rights of individuals with handicaps in programs and activities that receive Federal financial assistance from the U.S. Department of Education.
Who is Protected?	Identifies all school-aged children who fall within one or more specific categories of qualifying conditions.	Identifies all school-age children as handicapped who meet the definition of qualified handicapped person; i.e., (1) has or (2) has had a physical or mental impairment which substantially limits a major life activity, or (3) is regarded as handicapped by others. Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself and performing manual tasks. The handicapping condition need only substantially limit one major life activity in order for the student to be eligible.
Responsibility to Provide a Free and Appropriate Public Education (FAPE)	Both laws require the provision of a free appropriate public education to eligible students covered under them including individually designed instruction. The Individual Education Plan (IEP) of IDEA will suffice for the Section 504 written plan for IDEA identified students only. An Accommodation Plan (AP) will be written for other 504 identified students.	

COMPONENT	IDEA (SPECIAL EDUCATION)	SECTION 504 (REGULAR EDUCATION)
	Requires a written IEP document with specific content and a required number of specific participants at the IEP meeting.	Does not require a written IEP document, but does require an AP. It is recommended that the school system document that a group of persons knowledgeable about the student convened and specified the agreed upon service.
	"Appropriate education" means a program designed to provide "educational benefit." Related services are provided if required for the student to benefit from specially designed instruction.	"Appropriate" means an education compatible to the education provided to non-handicapped students, requiring that reasonable accommodations be made. Related services, independent of any special education services as defined under IDEA, may be the reasonable accommodation.
Special Education vs. Regular Education	A student is only eligible to receive IDEA services if the multidisciplinary team determines that the student is disabled under one or more of the specific qualifying conditions and requires specially designed instruction to benefit from education.	A student is eligible so long as s/he meets the definition of qualified handicapped person; i.e., (1) has or (2) has had a physical or mental impairment which substantially limits a major life activity, or (3) is regarded as handicapped by others. It is not required that the handicap adversely affect educational performance to the extent that the student needs special education in order to be protected.

COMPONENT	IDEA (SPECIAL EDUCATION)	SECTION 504 (REGULAR EDUCATION)
Funding	Provides additional funding for eligible students.	Does not provide additional funds. IDEA funds may not be used to serve children found eligible only under Section 504.
Accessibility	Requires that modifications must be made if necessary to provide access to a free appropriate education.	Has regulations regarding building and program accessibility, requiring that reasonable accommodations be made.
Procedural Safeguards	Both require notice to the parent or guardian with respect to identification, evaluation and/or placement. IDEA procedures will suffice for Section 504 implementation.	
	Requires written notice.	Does not require written notice, but a district would be wise to do so. (RE2)
	Delineates required components of written notice.	Written notice not required, but indicated by good professional practice. (RE2)
	Requires written notice prior to any change in placement.	Requires notice only before a "significant change" in accommodations.
Evaluations	A full comprehensive evaluation is required, assessing all areas related to the suspected disability. The child is evaluated by a multi-disciplinary team or group.	Evaluation draws on information from a variety of sources in the area of concern; decisions made by a group knowledgeable about the student, evaluation data, and accommodation options.
	Requires informed consent before an initial evaluation is conducted.	Does not require consent, only notice. However, good professional practice indicates informed consent. (RE3)

COMPONENT	IDEA (SPECIAL EDUCATION)	SECTION 504 (REGULAR EDUCATION)
Evaluations (Continued)	Requires reevaluations to be conducted at least every 3 years.	Requires periodic reevaluations. IDEA schedule for reevaluation will suffice.
	A reevaluation is not required before a significant change in placement. However, a review of current evaluation data, including progress monitoring, is strongly recommended.	Reevaluation is required before a significant change in accommodations.
	Provides for independent educational evaluation at school system expense if parent disagrees with evaluation obtained by school and hearing officer concurs.	No provision for independent evaluations at school system expense. The school system should consider any such evaluations presented.
Identification Procedures	When interpreting evaluation data and making identification decisions, both laws require school systems to: a. Draw upon information from a variety of sources. b. Assure that all information is documented and considered. (RE1/HCA or DEC3/HCA) c. Ensure that the eligibility decision is made by group of persons including those who are knowledgeable about the child, the meaning of the evaluation data and accommodation options. d. Ensure that the student is educated with his/her non-handicapped peers to the maximum extent appropriate (least restrictive environment).	
	An IEP review meeting is required before any change in placement.	A meeting is not required for any change in accommodations.

COMPONENT	IDEA (SPECIAL EDUCATION)	SECTION 504 (REGULAR EDUCATION)
Grievance Procedure	Does not require a grievance procedure, nor a compliance officer.	Requires district with more than 15 employees to (1) designate an employee to be responsible for assuring school system compliance with Section 504 and (2) provide a grievance procedure for parents, students and employees.
	Both statutes require school systems to provide impartial hearings for parents or guardians who disagree with the identification, evaluation or placement/accommodation of a student.	
	Delineates specific requirements.	Requires that the parent have an opportunity to participate and be represented by counsel. Other details are left to the discretion of the local school system. Policy statements should clarify specific details.
	Requires the parent or guardian to pursue administrative hearing before seeking redress in the courts.	Administrative hearing not required prior to OCR involvement or court action; compensatory damages possible.
	Enforced by the U. S. Office of Special Education Programs. Compliance is monitored by the State Department of Education and the Office of Special Education Programs.	Enforced by the U.S. Office of Civil Rights.

COMPONENT	IDEA (SPECIAL EDUCATION)	SECTION 504 (REGULAR EDUCATION)
	The State Department of Education resolves complaints.	State Department of Education has no monitoring, complaint resolution or funding involvement.

[Adapted from **Student Access**, C.A.S.E., 1992]

PROGRAM OF SERVICES

Notice of Rights [34 CFR 104.36]. (Refer to RE-4)

Following evaluation, and identification or a decision not to evaluate or identify a student for Section 504 accommodations, parents of students shall be provided a Notice of Eligibility and Rights. Specific requirements for procedural safeguards include:

1. **Notice of Rights.** A notice of rights will be provided to parents or guardians upon evaluation, prior to a significant change of accommodations and as often, thereafter, as the student is reevaluated.

2. **Review of Relevant Records.** Parents shall be afforded the opportunity to review relevant educational records. The school system shall follow procedures established in its FERPA (Family Education Rights and Privacy Act) policy to which parents are provided annual notice. See the Pitt County Board of Education Student Records Policy.

3. **Impartial Hearing.** Parents or guardians will have an opportunity for an impartial hearing regarding the identification, evaluation or educational accommodations of their child.

Accommodation Plan (AP)

The Act requires an appropriate educational program designed to meet the individual educational needs of the qualified handicapped individuals. The regulations state that an individualized educational program (IEP) developed in accordance to the IDEA standard is **one means** of satisfying the requirement for a free appropriate public education. [34 CFR 104.33 (b)(2)] Similar procedures are to be followed in developing Accommodation Plans. The Accommodation Plan should be developed by a committee knowledgeable of the student. The committee may include the referring teacher, selected members of the student services staff and other personnel knowledgeable of the student and knowledgeable of the meaning of evaluation data. The principal shall take steps to ensure that parents are afforded an opportunity to participate in the development of the program.

Classroom and Facility Accommodations Examples

The following classroom/facility accommodations are presented as examples of ways in which Section 504 handicaps may be successfully addressed within the regular education environment.

I. Communication

A. There may be a need to modify parent/student/teacher communications. For example:

- develop a daily/weekly journal
- develop parent/student/school contacts
- schedule periodic parent/teacher meetings
- provide parents with duplicate sets of texts

B. There may be a need to modify staff communications. For example:

- identify resource staff
- network with other staff
- schedule building team meetings
- maintain on-going communication with building principal

C. There may be a need to modify school/community agency communication. For example, with parent consent:

- identify and communicate with appropriate agency personnel working with student
- assist in agency referrals

. provide appropriate carryover in the school environment

II. Organization/Management

A. There may be a need to modify the instructional day. For example:

. allow student more time to pass in hallways
. modify class schedule

B. There may be a need to modify the classroom organization/structure. For example:

. adjust placement of student within classroom (e.g., study carrel, proximity to teacher, etc.)
. increase/decrease opportunity for movement
. determine appropriate classroom assignment (e.g., open versus structured)
. reduce external stimuli

C. There may be a need to modify the district's policies/procedures. For example:

. allow increase in number of excused absences for health reasons
. adjust transportation/parking arrangements
. approve early dismissal for service agency appointments

III. Alternative Teaching Strategies

A. There may be a need to modify teaching methods. For example:

. adjust testing procedures (e.g., length of time, administer orally, tape record answers)
. individualize classroom/homework assignments
. utilize technology (computers, tape recorders, calculators, etc.)

B. There may be a need to modify materials. For example:

. utilize legible materials
. utilize materials that address the student's learning style (e.g., visual, tactile, auditory, etc.)
. adjust reading level of materials

IV. Student Precautions

A. There may be a need to modify the classroom/building climate for health purposes. For example:

. use an air purifier in classroom
. control temperature
. accommodate specific allergic reactions

B. There may be a need to modify classroom/building to accommodate equipment needs. For example:

. plan for evacuation for wheelchair-bound students
. schedule classes in accessible areas

C. There may be a need to modify building health/safety procedures. For example:

. administer medication
. apply universal precautions
. accommodate special diets

Reevaluation

The regulations [34 CFR 104.35 (d)] do not specify a schedule for conducting reevaluations; it is required that reevaluations be conducted periodically. Reevaluations should be conducted on a three year basis according to established IDEA procedures.

Also, reevaluations must be conducted prior to a significant change in accommodation. [34 CFR 104.35 (b)] This means that before a student is changed from one setting on the continuum of accommodations to another, a reevaluation must take place. In addition, a reevaluation shall occur prior to long-term suspensions or expulsions. If it is determined that the behavior is caused by the handicap, the TAT Committee shall modify the current educational accommodation or make, if appropriate, an alternative educational accommodation.

Grievance Procedure

The school system shall utilize informal procedures for grievance resolution.

The principal (or designee) shall hear grievances of students who believe they have been mistreated as a result of handicap discrimination. If after appealing to this designated official, the student is dissatisfied, s/he may submit the request in writing to the Superintendent for a review of the case.

The Superintendent, or his designee, will arrange a conference with the student and/or parent(s)/guardian and make a decision regarding the grievance. By written notice within ten days of the Superintendent's decision, the student/parent(s)/guardian may request a review by the Pitt County Board of Education. The Board of Education shall render its decision within thirty days of receipt of the grievance.

Due Process Hearing Procedures

An impartial due-process hearing will be utilized to resolve differences involving the education of a Section 504 qualified handicapped student when such differences cannot be resolved by means of a less formal procedure. In this instance, due process is defined as an opportunity to present objections and reasons for the objections to the decision and/or procedures of the committee regarding application of Section 504. A Section 504 due process hearing may be called at the request of the school system or a parent, guardian or surrogate of an affected student.

SUMMARY

OF

FORMS

Pitt County Schools
Section 504 of the Rehabilitation Act of 1973
Summary of Forms

Title of Form	Form No.	Purpose	Person Completing	Person(s) Receiving
Focus of Concern/Screening	RE1/HCA	to document information gathered and interventions utilized	Referring Party	TAT
Parental Notification of Screening Procedures	RE2	to notify parents of consideration for 504	TAT Member	Parent TAT
Permission for Screening	RE3	to obtain permission for screening	TAT Member	Parent TAT
Notice of Eligibility and Rights (504)	RE4	to inform parents of their child's eligibility and rights under Section 504	TAT Member	Parent TAT Folder
Accommodation Plan	RE5	to document handicapping condition, accommodations and parental notification	TAT Member	TAT Folder Serving Teachers Parent

FOCUS OF CONCERN/SCREENING

Student: _____ School: _____
Sex: ____ Race: ____ Grade: _____ Parent/Guardian: _____
Date of Birth: ___/___/___ Age: _____ Address: _____

I.D. # (optional): _____ Telephone: _____

Date: _____ Referring Party: _____

Focus of Concern (Describe Problem Situation): _____

I. Parent Conference/Contact Record

A. First Contact/Attempt Date: _____/_____/_____
School Person Making Contact: _____
Type of Contact: _____ School Conference _____ Letter/Note _____ Home Visit _____ Phone Call
_____ Other: _____

Purpose: _____

Comments on Conference: _____

B. Second Contact/Attempt Date: _____/_____/_____
School Person Making Contact: _____
Type of Contact: _____ School Conference _____ Letter/Note _____ Home Visit _____ Phone Call
_____ Other: _____

Purpose: _____

Comments on Conference: _____

II. Parental Notification of Screening Procedures Form (RE2) Sent
Notice Sent by: _____ Date: _____/_____/_____

III. Classroom Observation
Observer: _____ Postion: _____ Date: __/__/__

A. Subject Observed

_____ Language Arts
_____ Music
_____ Free Time
_____ Art
_____ Other: _____
_____ Social Studies
_____ Science
_____ P.E.
_____ Math

B. Learning Situation

_____ One- to- One
_____ Class
_____ Small Group
_____ Independent

C. Student Behaviors

_____ Attentive
_____ Sits quietly
_____ Talks out of turn
_____ Easily distracted
_____ Overactive, restless
_____ Talks excessively
_____ Immature behavior
_____ Withdrawn
_____ Works well independently
_____ Disruptive
_____ Trouble finding place
_____ Disorganized work habits
_____ Avoids eye contact
_____ Difficulty copying from board
_____ Careless, doesn't complete tasks
_____ Constantly out of seat
_____ Contributes to class discussion
_____ Short attention span
_____ Friendly
_____ Displays leadership ability
_____ Easily frustrated
_____ Aggressive toward children
_____ Obscene language
_____ Neat appearance
_____ Demands excessive attention
_____ Perseverates (repetitive behavior)
_____ Daydreams
_____ Tries to control others
_____ Avoids groups
_____ Cooperative
_____ Does not follow directions
_____ Unusual language
_____ Speech problem
_____ Other: _____

IV. Screening Committee Data Collection

A. Records Review - School History

1. Attendance Pattern (indicate where problems occurred):

	Grade			
Absences				
Days Enrolled				
Tardies				

2. Past and Current Subject Marks (three most recent, if appropriate):

Year	Grade					
		Subject:				
		Mark:				
		Subject:				
		Mark:				
		Subject:				
		Mark:				

3. Results of Previous Testing:

a. Instrument Used: _____
Date: _____
Results: _____
_____
_____

b. Instrument Used: _____
Date: _____
Results: _____
_____
_____

c. Group Standardized Test Scores (record percentile scores)
Name of Test: _____

Subtest	Year/ ___	Year/ ___	Year/___
Reading			
Language			
Math			
Total Battery			
Other			

Test of Cognitive Skills		
Grade	Year	CSI

d. **Individual Screening: (When appropriate)** **Permission for Screening (RE 3)**
Date Obtained: _____

Ability (Date): _____ **Standard Score:** _____
(Date): _____ **Standard Score:** _____

Achievement (Date): _____ **Age Standard Score:**
Reading _____
Math _____
Written Lang. _____
Knowledge _____

B. General Medical - Health Screening

1. Describe any serious illness or accident since birth: Date Hospitalized
_____ _____ Yes No
_____ _____ Yes No

2. Other Relevant Health Information:
_____
_____

3. Visual Acuity
Far Pass/Fail Date ____/____/____

Hearing Pass/Fail Date ____/____/____

C. Social Functioning and Environmental and Cultural Status

_____ Information concerning the social, environmental and cultural status of this student (check) has been reviewed.

Comments: _____
_____

RE 1(b)/HCA

Student _____

V. Intervention Strategies

Area(s) of Concern _____

Interventions	Dates (Month/Day/Year)		Results (Check)			
	Beginning	Ending	No Change	Erratic	Improvements	Success
1. Praise/Attention						
2. Modified Instruction						
3. Modified Environment						
4. Counseling, Support Group						
5. Behavioral Contract Point System, Charting						
6. Parent Follow-Up						
7. Time-Out						
8. Detention						
9. Specialized Instructional Equipment						
10. Peer Tutor						
11. Chapter 1, Other Support (Volunteers)						
12. Public/Private Agency						
13. Community Resources						
14. Change in Schedule						
15. Change in Curriculum						
16. Change in Teachers						
17. Other(s) (Specify):						
18. Other(s) (Specify):						

Signature of Person(s) Using Strategies _____ Date: __/__/__

VI. After the use of the above strategies, does inappropriate behavior still appear to interfere consistently and significantly with student's own learning process? Yes ____ No ____

If yes, please comment on the following:

Duration of behavior _____

Frequency of behavior _____

Intensity of behavior _____

VII. Based on information gathered during the screening process, it is the decision of this committee to:

A. First Meeting

1. _____ Refer to School-Based Committee for evaluation

2. _____ Continue regular education program with new strategies for _____ weeks.

3. _____ Continue regular education program with strategies proved effective during screening.

Comments (if any) _____

_____

_____

_____

_____

Committee Members' Signatures - Positions

_____

_____

_____

Date _____ / _____ / _____

B. Second Meeting (only needed if A(2) is checked above)

1. _____ Refer to School-Based Committee for evaluation

2. _____ Continue regular education program with strategies proved effective during screening.

Comments (if any) _____

_____

_____

_____

_____

Committee Members' Signatures - Positions

_____

_____

_____

Date _____ / _____ / _____

PITT COUNTY SCHOOLS

PARENTAL NOTIFICATION OF SCREENING PROCEDURES

Date _____/_____/_____

Dear _____:

Your child, _____, is having difficulty in certain areas of his/her school program. We plan to begin a screening process for your child so that we may be able to offer suggestions as to how he/she can best be served in our school program. The screening process may include:

1. classroom strategies
2. vision, hearing and health screening
3. classroom observations
4. reviewing school records
5. parent conference(s)
6. speech-language screening

Please call_____ if you have questions. The telephone number is _____.

Sincerely,

_____
Principal/Designee

_____
School

****

Retain a copy in child's folder.

****

RE-3

Date

1st Notice _____
2nd Notice _____
3rd Notice _____

PITT COUNTY SCHOOLS

PERMISSION FOR SCREENING

Date _____

Dear _____:

It has been recommended that the Teacher Assistance Team complete educational screening with your child, _____, and offer suggestions as to how we can best serve him/her in our school program. The screening process may include:

. Achievement Screening
. Ability Screening
. Social/Developmental Screening

The information gained in the screening will be used by the assistance team to help determine what strategies will work best for your child. If you have questions, please call _____ (Name) at _____ (Phone #).

Sincerely,

_____
Principal or Designee

_____
School

PLEASE RETURN TO THE SCHOOL:

___ I give permission for my child, _____, to receive the screening services described above in order that his/her specific educational needs might be identified.

___ I do not give permission for the screening services above.

_____
Parent (Guardian) Signature

_____
Date

PITT COUNTY SCHOOLS
NOTICE OF ELIGIBILITY AND RIGHTS
SECTION 504
1973 REHABILITATION ACT
NOTICE OF ELIGIBILITY

Dear _____, Date _____

_____ Your child, _____ has been determined to be handicapped under Section 504 upon initial evaluation or reevaluation. For additional information, please see the attached Accommodation Plan.

_____ Your child, _____ has been determined not to be handicapped under Section 504 upon initial evaluation or reevaluation.

_____ Your child, _____ has been determined to be in need of a significant change of accommodations. For additional information, please see the attached Accommodation Plan.

If you have questions, please call _____ at _____.
(name) (phone number)

Sincerely,

_____
_____
Principal or Designee School

NOTICE OF RIGHTS

1. Section 504 of the 1973 Rehabilitation Act is a non-discrimination statute barring discrimination on the basis of handicap.

2. It is the policy of the Pitt County Schools not to discriminate on the basis of handicap in its educational programs, activities or employment policies as required by the Act.

3. The Act requires the school system to locate, evaluate and determine if the student is a qualified individual requiring accommodation necessary to provide access to educational programs.

4. Parents are entitled to have the opportunity to review relevant educational records under the Family Education Rights and Privacy Act (FERPA). The requirements of the Act are described in the Pitt County Board of Education Policy Manual, Student Records policy, which is available for review in the principal's office or can be found within the student/parent handbook annually distributed by each school.

5. Parents or guardians disagreeing with the decisions reached by school personnel for accommodations necessary for access to educational programming may request an impartial hearing by notifying the school principal.

6. The designated school system Section 504 coordinator is the Student Services Executive Director who may be reached at the Pitt County Schools Central Office, phone 830-4200.

CC: TAT Folder

RE5

PITT COUNTY SCHOOLS
SECTION 504
ACCOMMODATION PLAN

I. Name_____Student ID#_____DOB __/__/__

II. School_____ Grade _____

III. Type of Referral:[ ] Initial [ ]Re-Evaluation [ ]Continuing

IV. Indicate the handicapping condition _____

V. Basis for determination as a qualified individual:

_____

_____

VI. Major Life Activity _____ Educational Impact:

_____

_____

_____

VII. Indicate necessary accommodations:

_____

_____

VIII. Location of accommodations (LRE):[ ]Regular Class [ ]Other
(i.e. community service agencies) _____

IX. Committee Signatures	Title	Date
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

X. Copy of this plan and copy of the Notice of Section 504 Rights sent to parent (or legal guardian) Date:_____

XI. I have reviewed this plan and have received a copy of the Notice of Section 504 Rights.

_____ _____
Parent/Guardian Signature-Date

CC: TAT Folder (white)
parent/guardian (yellow)
serving teacher(s) (pink)

RESOURCE LIST

Resource List for Possible Section 504 Accommodations

McCarney, S.B. (1989). Attention Deficit Disorders Intervention Manual. Columbia, MD:Hawthorne.

McCarney, S.B. & Bauer, A.M. (1989). The Learning Disability Intervention Manual. Columbia, MO:Hawthorne.

McCarney, S.B., & Bauer, A.M. (1990). The Parent's Guide to Attention Deficit Disorders. Columbia, MO: Hawthorne.

McCarney, S.B. & Cummins, K.K. (1988). The Pre-referral Intervention Manual: The Most Common Learning and Behavior Problems Encountered in the Educational Environment. Columbia, MO: Hawthorne.

Parker, H.C. (1988). The ADD Hyperactivity Workbook for Parents, Teachers and Kids. Plantation, FL: Impact Publications, Inc.

Pitt County Schools. (1992). Identifying Students with ADD/ADHD as Other Health Impaired(OHI). Greenville, NC.

Pitt County Schools, (1993). Teacher Assistance Team Training Manual. Greenville, NC.

Ritenour, W., & Handron, C.J. (1991). The ADHD Child. Greenville, NC:Pitt County Mental Health.

Wunderlich, K.C. (1988). The Teacher's Guide to Behavioral Interventions: Intervention Strategies for Behavior Problems in the Educational Environment. Columbia, MO:Hawthorne.